

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 28th day of January, two thousand fifteen.

Present:

Dennis Jacobs,
Guido Calabresi,
Richard C. Wesley,
Circuit Judges.

Cellmark, Inc.,

Plaintiff-Appellee,

v.

BIVAC North America, Inc.,

*Defendant-Cross-Claimant-Cross-
Defendant-Appellant,*

Jeffrey Fitch,

Defendant-Cross-Claimant-Defendant,

14-4273

Epcorp Limited, DBA Epcorp Limited,

*Defendant-Cross-Claimant-Cross-Defendant-
Third-Party-Plaintiff,*

Lawson & Cook Enterprises, Inc., DBA, et al.,

Third-Party-Defendant-Cross-Defendant,

ZIM Integrated Shipping Services, Ltd.,

*Third-Party-Defendant-Cross-Claimant-
Cross-Defendant.*

Appellant moves to withdraw this appeal pursuant to Federal Rule of Appellate Procedure 42(b). Appellee moves to dismiss the appeal for lack of jurisdiction and to sanction Appellant for bringing a frivolous appeal. Upon due consideration, it is hereby ORDERED that Appellee's motion to dismiss is GRANTED and the appeal is DISMISSED. This Court lacks jurisdiction over this appeal. Because a sanctions award against a party can be challenged on an appeal from the final judgment, a final order has not been issued by the district court as contemplated by 28 U.S.C. § 1291 and the collateral order doctrine. *See Coopers & Lybrand v. Livesay*, 437 U.S. 463, 467 (1978). It is further ORDERED that Appellant's motion is DENIED as moot, and Appellee's motion for sanctions is DENIED.

FOR THE COURT:

Catherine O Hagan Wolfe, Clerk

The image shows a handwritten signature in black ink that reads "Catherine O Hagan Wolfe". The signature is written over a circular official seal. The seal has a red outer ring with the words "UNITED STATES" at the top and "COURT OF APPEALS" at the bottom, separated by two small stars. The center of the seal is blue and contains the words "SECOND CIRCUIT" in white capital letters.